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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/582,887	08/17/2000	Diego Carmello	CARP-0083	3146

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EXAMINER

JOHNSON, EDWARD M

ART UNIT PAPER NUMBER

1754

DATE MAILED: 11/20/2002

17

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/582,887

Applicant(s)

CARMELLO ET AL.

Examiner

Edward M. Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 16-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 August 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 14.
- 4) ☒ Interview Summary (PTO-413) Paper No(s). 13.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Drawings***

1. The drawings are objected to because it is labeled "Fig. 1", which should be deleted, since there is only a single drawing in the Application. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because it repeats information given in the title. Correction is required.

See MPEP § 608.01(b).

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4. The disclosure is objected to because of the following informalities: It does not contain a Brief Description of the Drawing and because throughout it refers to the drawing as "Figure 1", which should be changed to --the figure--, since there is only one figure in the application.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Convers et al. 4,460,699.

Regarding claim 16, Convers '699 discloses gamma alumina carrier (see column 4, lines 57-61), impregnation in several steps with aqueous solutions of the single reagent which is to be loaded onto the solid carrier (see column 1, lines 34-39) and salts of copper, magnesium, and lithium (see column 5, lines 20-30), to produce a catalyst having a layer of catalyst carrier material containing manesia carrying a catalytic agent

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containing copper (see column 4, lines 51-68; column 5, lines 6-8 and 20-22; and claims 2 and 3).

Regarding claim 17, Convers '699 discloses chloride salts (see column 5, lines 20-21 and 31-32).

7. Claims 18-30 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Convers '699.

Regarding claim 18 and 30, Convers '699 discloses gamma alumina carrier (see column 4, lines 57-61), impregnation in several steps with aqueous solutions of the single reagent, which is to be loaded onto the solid carrier (see column 1, lines 34-39) and salts of copper, magnesium, and lithium (see column 5, lines 20-30), to produce a catalyst having a layer of catalyst carrier material containing manesia carrying a catalytic agent containing copper (see column 4, lines 51-68; column 5, lines 6-8 and 20-22; and claims 2 and 3).

Regarding claims 19-21, Convers '699 discloses 0.1-9% copper (see column 5, lines 22-27) and a 0.05-1.0 metal to Cu molar ratio (see column 5, lines 32-35).

Regarding claims 22-29, Convers '699 discloses gamma alumina carrier (see column 4, lines 57-61) a minimum carrier surface area of 50 square meters per gram (see column 1, lines

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41-43) and carrier thickness of 0.001-1 mm (see column 2, lines 20-22).

In the event any differences can be shown for the product of the product-by-process claims 18-30, as opposed to the product taught by Convers '699, such differences would have been obvious to one of ordinary skill in the art at the time the invention was made as a routine modification of the product in the absence of a showing of unexpected results; see also *In re Thorpe*, 227 USPQ 964 (Fed.Cir. 1985).

***Response to Arguments***

8. Applicant's arguments filed 10/3/02 have been fully considered but they are not persuasive.

It is stated that the Examiner agrees that the claims have been adequately distinguished. This is not persuasive because no agreement was reached with respect to the claims in the telephone interview and because Convers '699 discloses Applicants claimed order of steps, since Convers discloses a carrier layer containing magnesia supporting a catalytic agent containing copper (see column 4, lines 51-68; column 5, lines 6-8 and 20-22; and claims 2 and 3), produced by impregnation (abstract), wherein the copper catalytic agent may be placed on the layered catalytic support material.

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**Conclusion**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward M. Johnson whose telephone number is 703-305-0216. The examiner can normally be reached on M-F 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on 703-308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

EMJ  
November 18, 2002

  
Edward M. Johnson  
Examiner  
Art Unit 1754  
November 18, 2002